



Cost Price and Finance



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Friday, October 26, 2007

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Agenda

- ▶ Award Fee
- ▶ Definition of Cost or Pricing Data
- ▶ Excessive Pass-Thru
- ▶ T&M Contracts



Award Fee

- ▶ Objective criteria will be used to measure contractor performance
- ▶ Standard performance measures to ensure earned award fees equal contractor performance
- ▶ HCA D&F for CPAF contracts
- ▶ DFARS Case 2006-D021
- ▶ New policy on provisional award fee?



Definition of Cost or Pricing Data

- ▶ Cost or pricing data
- ▶ Certified cost or pricing data
- ▶ ~~Information~~ [Data] other than [certified] cost or pricing data
- ▶ Get data needed to determine fair and reasonable prices
- ▶ FAR Case 2005-036



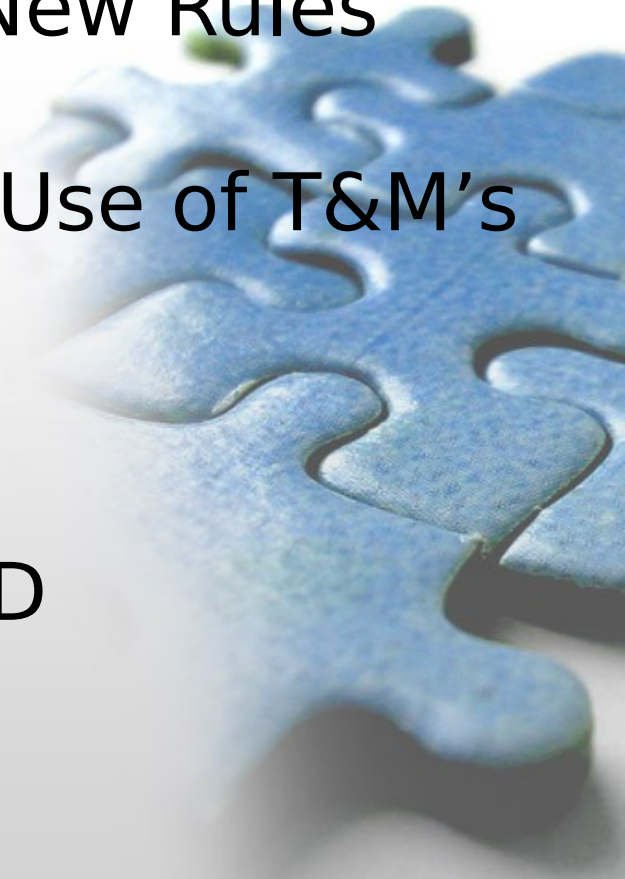
Excessive Pass-Through Charges

- ▶ Prohibition on “excessive pass-through” charges
 - Charges for indirect costs and profit on work performed by a subcontractor when upper-tier contractor adds no or negligible value are excessive pass-through
 - Charges for managing subcontracts, including applicable indirect costs and profit, are not excessive pass-through
- ▶ DFARS Case 2006-D057



Time-and-Materials/Labor-Hour

- ▶ New Rules
- ▶ Problems Under the New Rules
- ▶ GAO Study on DoD's Use of T&M's
- ▶ Pending Legislation
- ▶ Future of T&Ms in DoD





New Rules

- ▶ FAR Case 2003-027, Commercial T&Ms
- ▶ FAR Case 2004-015, Non-commercial T&Ms
- ▶ DFARS Case 2006-D030, Non-commercial, competitively awarded DoD T&Ms



Problems Under the New Rules

- ▶ Payments on Time-and-Materials and Labor-Hour Contracts
FAR Case 2007-003





Commercial T&M Problems

- ▶ Payment and acceptance
 - Termination for cause
 - Nonconforming supplies and services





Non-Commercial T&M Problems

- ▶ T&M clause conflicts with Allowable Cost and Payment clause
- ▶ Clause unclear on prompt payment interest for interim payments





GAO on DoD's Use of T&Ms

- ▶ Defense Contracting: Improved Insight And Controls Needed over DoD's Time-and Materials Contracts (GAO-07-273 June 1, 2007)
- ▶ DFARS Case 2007-D021, Limitations on DoD Non-Commercial T&M Contracts



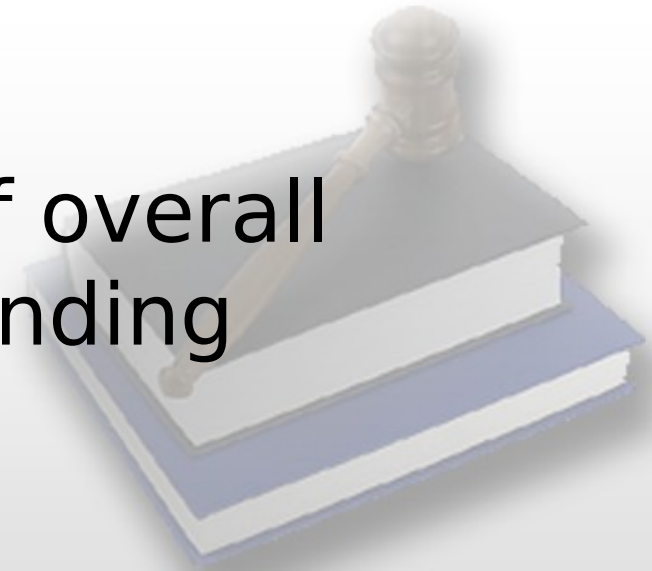
Primary Objectives

- ▶ Identify T&M spending trends and determine—
 - What DoD is buying
 - Why DoD is using T&Ms
 - Whether T&Ms are used when other contract types are suitable



T&M Spending Trends

- ▶ T&M spending increased from \$5B in 1996 to over \$9.6B in 2005
- ▶ Steady 5.9 – 6.8% of overall service contract spending





What DoD is Buying

- ▶ Over 75% for 3 categories of services
 - \$4.2B Professional, administrative, and management support services
 - \$1.8B Information technology and communications
 - \$1.3B Maintenance, repair, and rebuilding of equipment





Why DoD is Using T&M

- ▶ Ease
- ▶ Speed
- ▶ Flexibility





Appropriate Contract Type

- ▶ Written justifications do not address why other contract types are not suitable
- ▶ 82% T&M spending through orders under indefinite-delivery contracts
- ▶ T&Ms default contract type on indefinite-delivery contracts



GAO Recommendations

- ▶ Noncommercial T&M
 - Adopt commercial D&F requirements
 - Structure indefinite-delivery contracts to authorize multiple contra types
- ▶ HCAs determine if T&Ms are the default contract type





Pending Legislation

- ▶ DoD FY08 Authorization Act (S. 1548)
- ▶ Sec. 823, Clarification of Rules Regarding the Procurement of Commercial Services





Prohibit T&M Except for

Sec. 823

- ▶ Commercial services procured for support of a commercial item, as described in section 4(12)(E) of the OFPP Act
- ▶ Emergency repair services

SARA

- ▶ Commercial services procured for support of a commercial item, as described in section 4(12)(E) of the OFPP Act
- ▶ Any other category of commercial services that is designated by OFPP



Future of T&Ms in DoD

- ▶ We are headed down a road of more restrictive use.

